

# California Regulatory Notice Register

REGISTER 2007, NO. 24-Z

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JUNE 15, 2007

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The California Regulatory Notice Register is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the California Regulatory Notice Register shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the California Regulatory Notice Register be retained for a minimum of 18 months.

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# PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

# TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest code of the following:

#### SAN FRANCISCO BAY AREA WATER TRANSIT AUTHORITY ANTELOPE VALLEY — EAST KERN WATER AGENCY

A written comment period has been established commencing on **June 15**, 2007 and closing on **July 30**, 2007. Written comments should be directed to the Fair Political Practices Commission, Attention Tara Stock, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45–day comment period, the proposed conflict of interest code will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

The Executive Director or the Commission will review the above–referenced conflict of interest code, proposed pursuant to Government Code Section 87300, which designates, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code to the agency for revision and re–submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code. Any written comments

must be received no later than **July 30, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re—submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict of interest code should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest code may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

#### ARTICLE 6.5 DIRECT MARKETING

(Notice published June 15, 2007)

#### NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend, Title 3, Article 6.5 of the California Code of Regulations (CCR) Sections 1392, 1392.2(a), 1392.2(b), 1392.4(d), 1392.6(b), and 1392.6(f). The Department also proposes to add the following subsections: 1392.2(u), (v), (w), (x), (y); 1392.4(k); 1392.6(f)(1), (2); 1392.9(e); and 1392.11(e).

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on July 30, 2007. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Rick S. Jensen, Chief Inspection and Compliance Branch California Department of Food and Agriculture 1220 N Street Sacramento, CA 95814

#### **AUTHORITY AND REFERENCE**

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 401, 407, 42681, 42682, 42684, 47000, 47001, 47002, 47003, 47004, 47020 and 47022 of the Food and Agricultural Code, and to implement, interpret, or make specific Sections 821, 42681, 47000, 47002, 47003, 47004, and 47004.1 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 1392 of the California Code of Regulations (CCR) expresses the intent of Article 6.5 Direct Marketing regulations. The specific purpose of amending Section 1392 is to further clarify the intent of the article.

Section 1392.2(a) of the CCR further defines the term "Certified Farmers' Market". It states who may operate a farmers' market. Amending this section adds the word "only" which clarifies that the options listed are not examples, but the specific entities that may operate the market.

Section 1392.2(b) of the CCR defines and specifies conditions for valid Certified Farmers' Market certificates. The amendment makes clear that the operator is liable and responsible for the market operation and regulatory compliance as a condition of being issued a certificate.

Existing Section 1392.2, of the CCR establishes definitions governing the construction of the language in this article. The specific purpose of amending CCR, Section 1392.2(u), (v), (w), (x) and (y) is to add definitions of processed agricultural products, and the preservatives, seasonings, flavorings, and food coloring allowed in those products. These definitions will make clarifications to enhance the uniformity of products sold at the markets.

Existing Section 1392.4 of the California Code of Regulations establishes conditions of direct marketing. The specific purpose of amending Section 1392.4(d) is to add the word "valid" to the requirement that the embossed certificate be present during transportation and at point of sale. This will ensure expired certificates cannot be used to comply with this section.

The specific purpose of amending Section 1392.4(k) is to require the seller of processed products to document compliance with production requirements referenced in section 1392.2(k) and to have that documentation available at the point of sale. It would restrict the quantities of the processed products to be less than the amount of fresh commodities listed on the certificate. It would require that the included ingredients not of their own production (other than sugar and water) must be the last ingredients listed on the label required by the Food and Drug Administration.

CCR Section 1392.6 lists the certification requirements of a certified farmers' market. The specific purpose of amending CCR, Section 1392.6(b) is to require that a map identifying the non–certified and/or non–agricultural product areas of the certified farmers' market be included in the operator application. Amending CCR, Section 1392.6(f) requires that the certified farmers' market rules and regulations include a provision regarding due process.

Section 1392.9 lists the compliance requirements for the certified farmers' market operator. Amending Section 1392.9(b)(1) of the CCR is to require the operator of certified farmers markets to keep records of processed products as they currently do for fresh products. Creating CCR Section 1392.9(g) will stipulate that the market operator shall provide due process to market participants prior to the imposition of a fine, and further outlines the due process requirements.

The specific purpose of adding Section 1392.11(e) to the CCR is to include denial of due process as a reason to appeal to the Director for a hearing.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None. Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption of these regulations will not:

- 1. Create or eliminate jobs within California;
- 2. Create new businesses or eliminate existing businesses within California; or
- 3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

#### EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. The proposed changes allow the certified producers increased flexibility in marketing their commodities and will increase the variety of products offered for sale at certified farmers markets.

#### CONSIDERATION OF ALTERNATIVES

The Department has initially determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Rick S. Jensen, Chief Inspection and Compliance Branch California Department of Food and Agriculture 1220 N Street, Sacramento, CA 95814 Telephone: (916) 445–2180; Fax: (916) 445–2427

The backup contact person for these inquiries is:

Susan Shelton, Staff Services Analyst Inspection and Compliance Branch California Department of Food and Agriculture 1220 N Street, Sacramento, CA 95814 Telephone: (916) 445–2180; Fax: (916) 445–2427

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Shelton at the above address.

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and minutes to various Certified Farmers' Market Advisory Committee meetings. Copies may be obtained by contacting Susan Shelton at the address or phone number listed above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficient-

ly related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Susan Shelton at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shelton at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: <a href="https://www.cdfa.ca.gov/is/regulation.htm">www.cdfa.ca.gov/is/regulation.htm</a>

# TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by 5:00 p.m. on July 30, 2007. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

<u>Authority and Reference:</u> Pursuant to the authority vested by sections 407 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9561, 9562, 9570 and 9574 of said Code, the Department proposes changes to Chapter 2, Division 2, of Title 3 of the California Code of Regulations, as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this State. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. Section 9570 authorizes the State Veterinarian to restrict the importation of animals, animal products, or other property from any state, territory, or foreign country should a quarantine be invoked pursuant to section 9562.

In compliance with the above sections of law, the Department has in place regulations to specify the requirements for the movement of poultry according to certain disease conditions. The Department is repealing these requirements in sections 800 (Asiatic Newcastle Disease), 800.1 (Asiatic Newcastle Disease), 800.1 (Duck Virus Enteritis), and 802 (Avian Influenza Interstate Movement), of Title 3 of the California Code of Regulations.

This proposal adopts new Article 13 (Interstate Movement of Poultry) and sections 821 (Definitions), 821.1 (General Requirements), 821.2 (Certificate of Veterinary Inspection), 821.3 (Interstate Livestock Entry Permit), 821.4 (Requirements for Entry of Poultry), and 821.5 (Violations), of Title 3 of the California Code of Regulations.

This proposal also incorporates by reference the National Poultry Improvement Plan, the Auxiliary Provisions, and VS Form 9–3 (Report of Sales of Hatching Eggs, Chicks, and Poults) under 9 CFR Parts 145 et seq., 146 et seq., and 147 et seq., (2007).

The intent of this proposal is to establish interstate movement requirements for poultry imported into California to help prevent and control the spread of poultry diseases within this State and the United States pursuant to Food and Agricultural Code section 9561.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

<u>Business Impact:</u> The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The following compliance requirements are projected to result from the proposed action:

#### Paperwork:

- Obtaining a Certificate of Veterinary Inspection. This proposal requires persons in other US states to obtain a Certificate of Veterinary Inspection prior to the entry of poultry from another state. An exemption is allowed for flocks participating in the National Poultry Improvement Plan. Any costs associated with obtaining a Certificate of Veterinary Inspection from a private veterinarian, or for participation in the National Poultry Improvement Plan cannot be determined by the Department. Poultry production facilities may utilize their own staff veterinarians to oversee the general health of their poultry, whereas other persons or businesses may need to pay for veterinary services. The Department cannot approximate costs for veterinary services as they vary by region, some veterinarians are salaried employees of businesses, and many businesses are located in remote areas which all affect costs.
- 2) Obtaining an Entry Permit. This proposal may require persons in other US states to obtain an Interstate Livestock Entry Permit prior to the entry of poultry into California. An Interstate Livestock Entry Permit is an internal record used by the Department to help locate animals during a disease outbreak. Information provided by the applicant may be used to investigate and determine sources of disease or infection, and to prevent subsequent spread of disease in California or the state from which animals came. The Animal Health Branch is the only one place where an entry permit can be obtained for domestic livestock entering the State. Most requests for entry permits are applied for by

telephone; however, the Animal Health Branch accepts requests for permits by other electronic means as specified. A unique permit number, indicating approval of the application, is usually issued immediately over the telephone after information is gathered. The applicant for the permit to transport livestock may request a copy of the permit from the Department, however, that rarely occurs as the applicant only needs the permit number for entry into the State. The applicant does not need to provide a copy of the permit itself to state or federal inspectors (when requested); however, the number of the permit must be included on the Certificate of Veterinary Inspection.

#### Reporting:

Pursuant to section 797 of Title 3 of the California Code of Regulations, specified persons are required to report certain conditions of avian species and commercial poultry to the Department or the United States Department of Agriculture, within timeframes specified on the List of Reportable Conditions for Animals and Animal Products.

#### Recordkeeping:

There are no specific requirements for recordkeeping in this proposal.

In making these determinations, the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishment of differing compliance, reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

<u>Cost Impacts on Private Persons or Entities:</u> The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are:

Paperwork:

- Obtaining a Certificate of Veterinary Inspection. This proposal requires persons in other US states to obtain a Certificate of Veterinary Inspection prior to the entry of poultry from another state. An exemption is allowed for flocks participating in the National Poultry Improvement Plan. Any costs associated with obtaining a Certificate of Veterinary Inspection from a private veterinarian, or for participation in the National Poultry Improvement Plan cannot be determined by the Department. Poultry production facilities may utilize their own staff veterinarians to oversee the general health of their poultry, whereas other persons or businesses may need to pay for veterinary services. The Department cannot approximate costs for veterinary services as they vary by region, some veterinarians are salaried employees of businesses, and many businesses are located in remote areas which all affect costs.
- Obtaining an Entry Permit. This proposal may require persons in other US states to obtain an Interstate Livestock Entry Permit prior to the entry of poultry into California. An Interstate Livestock Entry Permit is an internal record used by the Department to help locate animals during a disease outbreak. Information provided by the applicant may be used to investigate and determine sources of disease or infection, and to prevent subsequent spread of disease in California or the state from which animals came. The Animal Health Branch is the only one place where an entry permit can be obtained for domestic livestock entering the State. Most requests for entry permits are applied for by telephone; however, the Animal Health Branch accepts requests for permits by other electronic means as specified. A unique permit number, indicating approval of the application, is usually issued immediately over the telephone after information is gathered. The applicant for the permit to transport livestock may request a copy of the permit from the Department, however, that rarely occurs as the applicant only needs the permit number for entry into the State. The applicant does not need to provide a copy of the permit itself to state or federal inspectors (when requested); however, the number of the permit must be included on the Certificate of Veterinary Inspection.

#### Reporting:

Pursuant to section 797 of Title 3 of the California Code of Regulations, specified persons are required to report certain conditions of avian species and commercial poultry to the Department or the United States Department of Agriculture, within timeframes specified on the List of Reportable Conditions for Animals and Animal Products.

#### Recordkeeping:

There are no specific requirements for recordkeeping in this proposal.

#### Effect on Housing Costs: None

<u>Finding of Necessity for Report:</u> The Department finds that it is necessary for the health, safety, and general welfare of the people of California that this regulation requiring a report applies to businesses.

#### EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above—mentioned hearing (if a hearing is requested from the public), or during the public comment period.

#### INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A–114, Sacramento, CA 95814.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

#### **CONTACT PERSONS**

Inquires concerning the substance of the proposed regulations is to be addressed to the following:

Name: Dr. Annette Whiteford, Director

Address: Department of Food and

Agriculture

Animal Health and Food Safety

Services

1220 N Street, Room A–114 Sacramento, CA 95814

Telephone No.: (916) 654–0881 Fax No.: (916) 653–4249

E-mail address: awhiteford@cdfa.ca.gov

The backup contact person is:

Name: Thami Rodgers, Associate

Analyst

Address: Department of Food and

Agriculture

Animal Health and Food Safety

Services

1220 N Street, Room A–114 Sacramento, CA 95814

Telephone No.: (916) 698–3276 Fax No.: (916) 653–4249 E-mail address: trodgers@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate

Analyst

Address: Department of Food and

Agriculture

Animal Health and Food Safety

Services

1220 N Street, Room A–114

Sacramento, CA 95814

Telephone No.: (916) 698–3276 Fax No.: (916) 653–4249 E-mail address: <u>trodgers@cdfa.ca.gov</u> <u>Website Access:</u> Materials regarding this proposal can be found at <u>www.cdfa.ca.gov</u>

# TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3700(c) of the regulations in Title 3 of the California Code of Regulations pertaining to Oak Mortality Disease Control as an emergency action on March 6, 2007. The Department proposes to continue the regulation as amended and submit a Certificate of Compliance for this action to the Office of Administrative Law no later than September 2, 2007.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 180 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before July 30, 2007.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322).

The emergency amendment of subsection 3700(c) established entire genera of *Kalmia* and *Pieris* (including all species, hybrids and cultivars) as hosts and specific references to the plant species of these two genera were deleted. The emergency amendment of subsection 3700(c) also established *Arctostaphylos uva—ursi* (Kinnikinnick), *Osmanthus delavayi* (Delavay Osmanthus), *Prunus laurocerasus* (English laurel) and *Schima wallichii* (Chinese guger tree) as associated articles under the articles and commodities covered by the regulation. The emergency amendment of subsection 3700(c) also established *Acer pseudoplatanus* (planetree maple),

Aesculus hippocastanum (horse chestnut), Fagus sylvatica (European beech), Fraxinus excelsior (European ash), Lithocarpus densiflorus (tanoak), Quercus agrifolia (coast live oak), Quercus cerris (European turkey oak), Quercus chrysolepis (canyon live oak), Quercus kelloggii (California black oak) and Quercus parvula var. shrevei and all nursery grown Q. parvula (Shreve's oak); as additional bole hosts covered by the regulation. Finally, subsection 3700(c), was alphabetically reorganized to reflect the host and associated host lists as they appear in the federal interim rule's "APHIS List of Hosts and Plants Associated with Phytophthora ramorum (Revision dated February 27, 2007)."

The effect of the changes to the regulation is to ensure clarity and to simplify the overall organization of subsection 3700(c) and to provide authority for the State to regulate movement of these new hosts and "associated hosts" and potential carriers of disease from the regulated area.

### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the amendment of Section 3700(c) does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under regulation has a duty to enforce Section 3700. No reimbursement is required for Section 3700 under Section 17561 of the Government Code because the agricultural commissioners of the affected counties requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of amending the regulation on a representative private person or business is not expected to be significantly adverse. The agency is not aware of any new cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ASSESSMENT**

The Department has made an assessment that the proposed amendment to the regulation would <u>not</u> (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### **ALTERNATIVES CONSIDERED**

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY**

The Department amended subsection 3700(c) pursuant to the authority vested by Sections 407, 5321 and 5322 of the Food and Agricultural Code of California.

#### REFERENCE

The Department amended subsection 3700(c) to implement, interpret and make specific Sections 24.5, 5321 and 5322, Food and Agricultural Code.

#### EFFECT ON SMALL BUSINESSES

The amendment of this regulation may affect small businesses.

#### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and

Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A–316, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E–mail: <a href="mailto:sbrown@cdfa.ca.gov">sbrown@cdfa.ca.gov</a>. In his absence, you may contact Liz Johnson at (916) 654–1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

#### **INTERNET ACCESS**

The Department has posted on its Internet website (<a href="www.cdfa.ca.gov/plant/index.html">www.cdfa.ca.gov/plant/index.html</a>) the information regarding this proposed regulatory action. Select "Proposed Changes in Regulations for Plant Health and Pest Prevention Services" and then section number(s).

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

# TITLE 4. BUREAU OF HOME FURNISHINGS AND THERMAL INSULATION

NOTICE IS HEREBY GIVEN that the Bureau of Home Furnishings and Thermal Insulation (hereafter "bureau") is proposing to amend regulations described in the Informative Digest below. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at two hearings to be held:

#### NORTHERN CALIFORNIA

July 30, 2007 10:00 a.m. DCA, Bureau of Home Furnishings & Thermal Insulation, Conference Room 3485 Orange Grove Avenue, Suite A Sacramento, California 95814

#### **SOUTHERN CALIFORNIA**

July 31, 2007 10:00 a.m. So. Coast Air Quality Management Dist. Room CC2 21865 E. Copley Drive Diamond Bar, California 91765

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received in the bureau's office no later than 5:00 p.m. on July 31, 2007, or must be received by the bureau at the hearings. The bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

<u>Authority and Reference</u>: Pursuant to the authority vested by Sections 19034 and 19161 of the Business and Professions Code, and to implement, interpret or make specific Section 19161, of said Code, the bureau is considering changes to Title 4, Division 3, of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Amend Section 1371:

The proposed amendments to Section 1371 would clarify the requirements for fire retardant mattresses and mattress sets in California and clarify the requirements for manufacturers and importers under the Act, consistent with the standards adopted by the Consumer Product Safety Commission at 16 CFR 1633 and following ("CPSC standard") as required by Senate Bill (SB) 1849, Statutes of 2006, Chapter 760.

Specifically, the proposed regulations would:

 repeal, as of July 1, 2007, existing language in the title, and at subdivisions (a)–(i) pertaining to Technical Bulletin 603 (TB 603), 16 CFR 1632 (smolder–resistance standard), and the definition pertaining to the "transient lodging" exemption at existing Section 19161(b) of the Business and Professions Code;

- clarify that mattresses and mattress sets must meet the labeling as well as open-flame resistance requirements of the CPSC standard;
- clarify that manufacturers and importers subject to the CPSC standard must meet all applicable requirements of that standard, including records requirements at 16 CFR 1633.11;
- specify the "one-of-a-kind" mattress set exemption contained in 16 CFR 1633.1;
- adopt new definitions for "mattress" and "mattress set" referenced in the CPSC standard;
- clarify that failure to comply with the CPSC standards referenced in proposed subdivisions (a) and (b) is grounds for discipline under the Act.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The bureau has determined that the proposed regulation will result in additional costs to the program.

The federal regulation requires manufacturers/importers to maintain record keeping of all prototype tests including test records, component substitution invoices, photographs or video records of tests performed, and quality control documentation. Therefore, inspections to verify compliance will increase.

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

<u>Business Impact</u>: The bureau initially determined that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This regulation proposes changes to current regulatory language to ensure consistency with the federal standard. The new federal standard imposes the same requirements on all manufacturers and importers who manufacture or import mattress products into the United States.

<u>Impact on Jobs/New Businesses</u>: The bureau has determined that this regulatory proposal will not have any impact on creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

<u>Cost Impact on Representative Private Person or</u> Business:

The regulatory proposal provides technical clean up to existing regulatory language to include the new requirements of the federal standard in Part 1633 of the Code of Federal Regulations (CFR).

The Bureau has approximately 5,000 Manufacturers and Importers that would be impacted as a result of the proposed regulation, which would increase their record keeping requirements. However, on average, the Bureau conducts 150 mattress manufactures/importers inspections per year. The Bureau anticipates 5% or eight businesses/individuals may be impacted/in violation of the record keeping requirements and 90% of the total businesses/individuals impacted would be small businesses. The estimated cost per business or individual would be the minimum administrative fine imposed, at \$250.00 per violation.

Effect on Housing Costs: None

<u>Effect on Small Business</u>: The bureau has determined that this regulatory proposal would impact small businesses.

The bureau has approximately 5,000 licensed manufacturers and importers. This proposal would increase their record keeping requirements. On average, the bureau conducts 150 mattress manufacturers/importer inspections per year. The bureau anticipates 5% or eight businesses may be impacted in violation of the record keeping requirements and 90% of the total businesses impacted would be small businesses.

#### CONSIDERATION OF ALTERNATIVES

The bureau must determine that no reasonable alternative that it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above—mentioned hearings.

### INITIAL STATEMENT OF REASONS AND INFORMATION

The bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all of the

information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from

April Alameda, Compliance Analyst 3485 Orange Grove Avenue, Suite A North Highlands, California 95660 (916) 574–2442 (916) 574–2120 April Alameda@dca.ca.gov

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site, **www.bhfti.ca.gov**.

#### **CONTACT PERSON**

Inquiries concerning the proposed administrative action may be directed to:

Name: April Alameda, Compliance Analyst Address: 3485 Orange Grove Avenue, Suite A

North Highlands, California 95660

Telephone: (916) 574–2442 Fax (916) 574–2120

E-mail: April\_Alameda@dca.ca.gov

The backup contact person is:

Name: Tammi Pitto, Compliance Analyst Address: 3485 Orange Grove Avenue, Suite A

North Highlands, California 95660

Telephone: (916) 574–1948 Fax (916) 574–2120

E-mail: Tammi\_Pitto@dca.ca.gov

Web Site Address: Materials regarding this proposal can be found at <a href="https://www.bhfti.ca.gov">www.bhfti.ca.gov</a>.

# TITLE 14. CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

[Notice published June 15, 2007]

#### NOTICE OF PROPOSED RULEMAKING

The California Department of Parks and Recreation (Department) proposes to adopt the proposed regulations described below after considering all comments,

objections, and recommendations regarding the proposed action.

#### **PUBLIC HEARING**

The Department has scheduled a public hearing on this proposed action starting at 9:00am on July 31, 2007, at Rush Park Community Center located at 7801 Auburn Blvd. Citrus Heights, California 95610. The Community Center is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at **5:00 pm on July 31, 2007**. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Ms. Debra Gonzalez

Office of Grants and Local Services

California Department of Parks and Recreation

P.O. Box 942896

Sacramento, CA 94296–0001 Email: dgonzalez@parks.ca.gov

Fax: (916) 653–6511 Phone: (916) 654–1618

#### AUTHORITY AND REFERENCE

Public Resources Code (PRC) Section 5003 and PRC Section 5072.8(c) authorize the Department to adopt the proposed regulation, which would implement, interpret, or make specific PRC Section 5072.8, 23 U.S.C. 104(h), and 23 U.S.C. 206.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Recreational Trails Program (RTP) was established in 1991 with the passage of the National Recreational Trails Fund Act Part B of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). ISTEA has been repealed but the RTP has been continued with the passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

Public Resources Code (PRC) Section 5072.8 was enacted by the Statutes of 1992, Chapter 964 to enable California to participate in the RTP. This statute established a State fund in which the funds received from the federal government could be deposited. It also defined eligible applicants, eligible projects, and how the funds were to be divided between motorized and non motorized recreational trail projects. Public Resources Code Section 5072.8 was recently amended by the Statutes of 2006, Chapter 574 adding federal government agencies as another eligible applicant. Even though PRC Section 5072.8 was chaptered in 1992, regulations for the RTP were never submitted to the rule making process.

The Department proposes to adopt Section 4860 in Title 14 of the California Code of Regulations (CCR). This section concerns the Recreational Trails Program.

The purpose of the proposed regulation is to incorporate by reference the <u>Procedural Guide for the federal Recreational Trails Program Final Draft June 4, 2007.</u>

Section 4860 will establish, implement, interpret, and make specific PRC Section 5072.8 and incorporate recent changes in statute. Specifically it will establish eligibility, application, grant selection and grant administration requirements for the Recreational Trails Program.

### FEDERAL REGULATION AND STATUTE CONFORMITY

The RTP is established on the federal level by <u>The Safe</u>, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Title 23, United States Code, Section 104(h) and Section 206]. There are no federal regulations or court cases that address the same issue.

Differences exist between the state and federal statutes as follows:

- Federal statute [23 U.S.C. 206(d)(2)] authorizes the following types of motorized and non motorized trail projects but state statute [PRC Section 5072.8 (b)] limits them solely to motorized trail projects:
  - a. The maintenance and restoration of existing recreational trails
  - b. The purchase and lease of recreational trail construction and maintenance equipment
  - c. The assessment of trail conditions for accessibility and maintenance
  - d. The development and dissemination of publications and operation of educational programs to promote safety and environmental protection.

- 2. Federal statute [23 U.S.C. 206(d)(4)(A)] establishes that the State can make grants under this program to private organizations, municipal, county, State, and Federal government entities, and other government entities as approved by the State after considering guidance from the State recreational trail advisory committee. State statute [PRC Section 5072.8(a)] narrows the list of eligible entities to cities, counties, districts, state and federal agencies and nonprofit organizations with management responsibilities over public lands.
- 3. State statute [PRC Section 5072.8(c)] requires that applicants certify that the project is not required as a mitigation measure as a condition for a permit or other entitlement. Federal statute does not have that limitation
- 4. State statute [PRC Section 5072.8(d)(1)] requires grantees to operate and maintain properties improved or purchased with Recreational Trails Funds in perpetuity. In the case of lands not held in fee by the grantee, perpetuity shall be in accordance with the tenure or for the length of time sufficient to provide public benefits commensurate with the type and duration of interest in the land held by the grantee. Federal statute does not have a minimum timeframe for a trail project to remain open to the public.

The Department finds that it is authorized to adopt a regulation that differs from federal statute. Federal statute allows each state to develop laws, policies and administrative procedures for the RTP (23 U.S.C. 206(d)(1)(A)). The proposed regulation mirrors the provisions found in State statute.

#### INCORPORATION BY REFERENCE

The purpose of the proposed regulation is to incorporate by reference the <u>Procedural Guide for the federal Recreational Trails Program Final Draft June 4, 2007.</u>

### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None. Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

Significant, statewide adverse economic impact directly affecting business including the ability of

California businesses to compete with businesses in other states: None. Only California governmental organizations and nonprofit organizations with management responsibilities over public lands in the state of California are eligible to compete for grants under this program. Government Code Section 11342.610(b)(6) excludes nonprofit organizations from the definition of a small business.

Cost impacts on a representative private person or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of this regulation will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Effect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Business reporting requirement: None.

Small business determination: The Department has determined that the proposed regulation does not affect small business. Only California governmental organizations and nonprofit organizations with management responsibilities over public lands in the state of California are eligible to compete for grants under this program. Government Code Section 11342.610(b)(6) excludes nonprofit organizations from the definition of a small business.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the proposed administrative action maybe directed to:

Debra Gonzalez

Office of Grants and Local Services Department of Parks and Recreation

P.O. Box 942896

Sacramento, CA 94296–0001

Email: dgonzalez@parks.ca.gov

Fax: (916) 653–6511 Phone: (916) 654–1618

The backup contact person for these inquiries is:

Richard Rendón

Office of Grants and Local Services

Department of Parks and Recreation

P.O. Box 942896

Sacramento, CA 94296-0001

Email: rrend@parks.ca.gov

Fax: (916) 653–6511

Phone: (916) 651–7600

Please direct requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Debra Gonzalez at the above address.

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file available for inspection and copying throughout the rule making process at its office at the above address. As the date of the notice is published in the Notice Register, the rule making file consists of (1) this notice, (2) the proposed text of the regulation, (3) the Procedural Guide for the federal Recreational Trails Program Final Draft June 4, 2007, (4) the initial statement of reasons, (5) the Procedural Guide for the federal Recreational Trails Program Final Draft January 25, 2007, (6) the Procedural Guide Recreational Trails Program under the Transportation Equity Act for the 21st Century (March 1999), (7) the Procedural Guide for the Recreational Trails Program Under the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (June 1, 2006), (8) the Recreational Trails Program 2006 Procedural Guide Development Process and Documents binder, (9) training material from the Federal Highway Administration (FHWA) concerning the Transportation Planning Process, (10) a draft copy of the Recreational Trails Program (RTP) CEQA/NEPA Determination Form from the FHWA, (11) a draft copy of the Recreational Trails Program (RTP) Project Application CEQA/NEPA Determination Form Instructions from the FHWA, (12) a copy of the Preliminary Environmental Study (PES) Form from the FHWA, (13) a copy of the Recreational Trails Program Project Application

Preliminary Environmental Study (PES) Form Instructions from the FHWA, (14) a copy of a FHWA webpage titled "Program Summary — Recreational Trails Program — FHWA", (15) a copy of a Federal Highway Administration webpage titled "Program Legislation — Recreational Trails Program — FHWA", (16) a copy of a FHWA webpage titled "Program Guidance, Part 1 — Recreational Trails Program — FHWA", (17) a copy of a FHWA webpage titled "SAFETEA-LU — Fact Sheets — Recreational Trails Program", and (18) the Draft Recreational Trails Program Guidance Draft for Review, October 14, 2006 from the FHWA. Copies may be obtained by contacting Debra Gonzalez at the address or phone number listed above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Debra Gonzalez at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Debra Gonzalez at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <a href="https://www.parks.ca.gov">www.parks.ca.gov</a> and by following the link to Grants and Bond Acts.

### TITLE 15. BOARD OF PAROLE HEARINGS

TITLE 15. CRIME PREVENTION AND
CORRECTIONS
DIVISION 2. BOARD OF PAROLE HEARINGS
(Formerly known as Board of Prison Terms)

AMENDMENTS TO SECTION 2600.1; SEXUALLY VIOLENT PREDATOR SCREENING, HOLDS, AND PROBABLE CAUSE HEARING BOARD DETERMINATIONS

#### NOTICE OF PROPOSED RULEMAKING RN 07-01

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) proposes to amend Title 15, Division 2, California Code of Regulations (CCR) § 2600.1 concerning sexually violent predator screening, holds, and board determinations.

#### **PUBLIC HEARING**

The Board has not scheduled a public hearing on this proposed regulatory action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Board. THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON JUNE 15, 2007, AND WILL CLOSE AT 5:00 P.M. ON JULY 30, 2007. All comments must be submitted in writing (by mail, fax or e-mail) to the Agency Contact Person identified in this Notice by that time in order for the comments to be considered by the Board. Submit comments to:

Teresa Arcure Owensby, Regulations Coordinator Board of Parole Hearings

PO Box 4036

Sacramento, CA 95812–4036 Telephone: (916) 322–9424 Facsimile: (916) 322–3475

E-mail: Teresa. Arcure@cdcr.ca.gov

#### **AUTHORITY**

These regulations are submitted pursuant to the Board's authority under Government Code §12838.4 and Penal Code §§ 3052 and 5076.2.

#### REFERENCE

These regulations are amended to implement, interpret, and/or make specific Proposition 83 and Senate Bill 1128.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code § 12838.4 vests the Board of Parole Hearings with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code § 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go on parole outside of prison when eligible for parole.

Penal Code § 5076.2 authorizes the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

The Board proposes to amend section 2600.1 in Title 15 of the California Code of Regulations, Division 2. This section concerns sexually violent predator screening, holds, and board determinations.

The proposed amendments implement Proposition 83 and Senate Bill 1128, and carry out the intent of those laws, the protection of public safety. In particular, the proposed regulatory amendments will allow the Board to place a hold on a prisoner or parole for an additional 45 days by making a finding of good cause based on a document review instead of holding a probable cause hearing.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

**Local Mandates:** The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

**Fiscal Impact Statement:** The Board has made the following initial determinations:

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630:
   None
- Cost or savings to any state agency: No additional costs beyond the Sex Offender Budget Change Proposal.
- Other non-discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: **None**

**Significant Statewide Adverse Economic Impact on Business:** The Board has determined that there is no significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with business in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effects on Job and/or Business Creation, Elimination or Expansion: The Board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

**Effect on Housing Costs:** The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

**Small Business Determination:** The Board has determined that the proposed regulation does not affect small business. This regulation directly affects prisoners, parolees and attorneys, who represent them at the small number of these special hearings.

#### CONSIDERATION OF ALTERNATIVES

The Board has determined that no reasonable alternatives identified or considered would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome than the proposed regulatory action.

#### CONTACT PERSON

Please direct requests for copies of the initial statement of emergency, the proposed text of the regulations, or other information upon which the rulemaking is based to: Teresa Arcure Owensby, Regulations Coordinator Board of Parole Hearings PO Box 4036 Sacramento, CA 95812–4036 Telephone: (916) 322–9424

Facsimile: (916) 322–3475

E-mail: Teresa.Arcure@cdcr.ca.gov

In any such inquiries, please identify the action by using the Board's regulation control number RN 07–01.

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: Devaney Sullivan at (916) 324–5903.

Website Access: Materials regarding this proposal can be accessed from the Board's website at <a href="http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg">http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg</a> revisions.html

#### AVAILABILITY OF THE STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulations), the proposed text of the regulation, Statement of Emergency, Initial Statement of Reasons and Form 399 (Fiscal Impact Statement). Copies may be obtained by contacting Teresa Arcure Owensby at the address or phone number listed above. Additionally, this notice of proposed action, the Statement of emergency, the Initial Statement of Reasons and the proposed text of the regulations are available on the Board's website at <a href="http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg">http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg</a> revisions.html

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Teresa Arcure Owensby at the address indicated above or by visiting the Board's website at <a href="http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\_revisions.html">http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\_revisions.html</a>. Further,

The Board will accept written comments on the modified regulations for 15 days after the day on which they are made available.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained from the Board contact person or the Board's website at <a href="http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg">http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg</a> revisions.html.

### AVAILABILITY OF DOCUMENT ON THE INTERNET

Copies of the Notice of Proposed Action, the proposed text of the regulation and Statement of Emergency can be accessed through the Board's website at <a href="http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\_revisions.html">http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\_revisions.html</a>.

# TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Board of Barbering and Cosmetology, Sequoia Room 109 A & B, 2420 Del Paso Road, Sacramento, California 95834 from 9:00 a.m. to 10:00 a.m. on July 30, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on July 30, 2007 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 7312 of the Business and Professions Code, and to implement, interpret or make specific Sections 7338 and 7340 of said Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 931

Business and Professions Code, Section 7312 grants the Board authority to adopt regulations relating to the practice of barbering and cosmetology.

Business and Professions Code, Section 7338 requires that the examination of applicants for a license include both a practical demonstration and a written test

Business and Professions Code, Section 7340 requires that all examinations be prepared by or under the direction of the Board. It authorizes the Board to establish standards and procedures governing administration and grading. The Interpreter and Interpreter/Model requirements appear in Article 4, 931(g), California Code of Regulations.

This Board is proposing to amend Section 931(g) because it is a discriminatory portion of the examination process that the Board is required to create and implement.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The proposed regulatory action has no cost impact in terms of increased expenses and/or savings to state agencies and/or federal funding.

Nondiscretionary Costs/Savings to Local Agencies

None

Local Mandate

None

Cost to Any Local Agency or School District for Which
Government Code Section 17561 Requires
Reimbursement

None

**Business Impact** 

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will have no significant impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses nor the expansion of businesses in the State of California.

### Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because it would simply allow both sexes to now assist our examinees (performing as an interpreter or interpreter/model) during our examination process.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments or ally or in writing relevant to the above determinations at the above—mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Barbering and Cosmetology at 2420 Del Paso Road, Suite 100, Sacramento, California 95834.

# AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site listed below.

#### **CONTACT PERSON**

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: April Oakley

Address: 2420 Del Paso Road, Suite 100

Sacramento, CA 95834

Telephone No.: (916) 575–7102 Fax No.: (916) 575–7281

E-mail Address: April\_Oakley@dca.ca.gov

The backup contact person is:

Name: Paul Cobb

Address: 2420 Del Paso Road, Suite 100

Sacramento, CA 95834

Telephone No.: (916) 575–7104 Fax No.: (916) 575–7281

E-mail Address: Paul\_Cobb@dca.ca.gov

#### Website Access

Materials regarding this proposal can be found at www.barbercosmo.ca.gov.

# TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

### STATE OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 2420 Del Paso Rd, Sequoia Room 109 A & B, Sacramento, CA 95834, from 10:00 a.m. until 11:00 a.m., on July 30, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under the contact person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on July 30, 2007 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### **Authority and Reference**

Pursuant to the authority vested by Sections 7407 and 7312 of the Business and Professions Code, and to implement, interpret or make specific Sections 7406 and 7409 of said code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 974.

Business and Professions Code section 7406 authorizes the Board to assess administrative fines for the violation of any rules and regulations adopted by the Board under this chapter. Business and Professions Code section 7407 requires that the Board indicate whether or not a type of violation can be corrected.

This proposal would amend section 974 to specify the fines for violations of the procedures for cleaning and disinfecting pedicure equipment and specify whether a type of violation can be corrected or not pursuant to Business and Professions Code section 7407.

#### Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

While it is difficult to project the fiscal impact to the proposed fine changes, it is safe to assume that in the short term, the Board's fund, which is where the fine money is distributed, would increase. The long-term goat of the increase in fines is to raise awareness for licensees of serious health and safety violations and gain compliance, citing less and balancing back the fund.

No federal funding impact anticipated.

#### Nondiscretionary Costs/Savings to Local Agencies

None

#### **Local Mandate**

None

# Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement

None

#### **Business Impact**

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

#### <u>Cost Impact on Representative Private Person or</u> Business

The cost impact that a representative private person or business would incur because of the proposed action depends upon their compliance with the Board's health and safety laws. The impact would be minimal to the licensee or establishment that have very few health and safety violations. On the other hand, the impact would be more significant to those who are not compliant to the health and safety violations.

#### **Effect on Housing Costs**

None

#### EFFECT ON SMALL BUSINESS

This proposal may have an effect on small business establishments licensed by our Board who fail to comply with the Board's health and safety laws.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Barbering and Cosmetology at 2420 Del Paso Rd Suite 100, Sacramento, CA 95834.

# AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

#### CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

#### **Contact Person:**

Name: Paul Cobb

Address: 2420 Del Paso Rd., Suite 100

Sacramento, CA. 95834

Telephone: (916) 575–7104 Fax: (916) 575–7281

Email

Address: Paul\_Cobb@dca.ca.gov

#### **Backup Contact Person:**

Name: April Oakley

Address: 2420 Del Paso Rd., Suite 100

Sacramento, CA, 95834

Telephone: (916) 575–7102 Fax: (916) 575–7281

Fax: Email

Address: April\_Oakley@dca.ca.gov

#### **Website Access**

Materials regarding this proposal can be found at www.barbercosmo.ca.gov

# TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

# NOTICE OF PROPOSED REGULATION ADOPTION

California Code of Regulations
Title 17. — Public Health
Division 4 — California Institute For
Regenerative Medicine
Chapter 1

Date: June 15, 2007

**Deadline for Submission of Written Comment: July** 

30,2007—5:00 p.m.

Hearing Date: None scheduled.

Subject Matter of Proposed Regulations: MES

Standards—Record Keeping

#### **Sections Affected:**

The proposed regulation adopts section 100120 of Title 17 of the California Code of Regulations.

**Authority:** Article XXXV of the California Constitution and Health and Safety Code section 125290.40, subdivision (j).

**Reference:** Sections 125290.35, 125290.40, 125290.55, Health and Safety Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Institute for Regenerative Medicine ("Institute" or "CIRM") was established in early 2005 with the passage of Proposition 71, the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens' Oversight Committee ("ICOC") is the 29-member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California's leading public universities, non-profit academic and research institutions, patient advocacy groups and the biotechnology industry.

The Scientific and Medical Accountability Standards Working Group ("Standards Working Group") makes recommendations to the 29-member ICOC that governs the CIRM on scientific, medical and ethical standards pertaining to stem cell research the institute funds. Specifically, California Health and Safety Code section 125290.55 requires the Standards Working Group to: 1) recommend to the ICOC scientific, medical and ethical standards; 2) recommend to the ICOC standards for all medical, socioeconomic, and financial aspects of clinical trials and therapy delivery to patients, including, among others, standards for safe and ethical procedures for obtaining materials and cells for research and clinical efforts for the appropriate treatment of human subjects in medical research consistent with paragraph (2) of subdivision (b) of Section 125290.35, and to ensure compliance with patient privacy laws; 3) recommend to the ICOC modification of the standards described in numbers (1) and (2) as needed; 4) make recommendations to the ICOC on the oversight of funded research to ensure compliance with the standards described in numbers (1) and (2); 5) advise the ICOC, the Scientific and Medical Research Funding Working Group, and the Scientific and Medical Research Facilities Working Group on an on–going basis on relevant ethical and regulatory issues.

Permanent regulations adopted pursuant to the APA governing these standards became effective in November of 2006 (see Title 17, California Code of Regulations sections 100100-100110.) The proposed regulation describes the records that must be maintained by the CIRM to ensure research is conducted pursuant to the standards adopted by the ICOC, to wit: records documenting: (1) Review or notification requirements as described in Title 17, California Code of Regulations, section 100070; (2) Every gamete, somatic cell, embryo donation or product of SCNT that has been donated, created or used. The records should be sufficient to determine whether such materials comply with section 100080, subdivision (e), and should document the final disposition of such materials. Finally, the regulation requires that such records shall be made available at CIRM's request.

#### **Submittal of Comments:**

Any interested parry may present comments in writing about the proposed action to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on July 30, 2007. Comments regarding this proposed action may also be transmitted via e-mail to <a href="mailto:mesrecords@cirm.ca.gov">mesrecords@cirm.ca.gov</a> or by facsimile transmission to (415) 396–9141.

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person's representative requests a public hearing, he or she must do so in writing no later than July 16, 2007.

#### **Effect on Small Business:**

CIRM has determined that the proposed regulatory action has no impact on small businesses. The regulation implements conditions on awarding grants for stem cell research. This research is conducted almost exclusively by large public and private non–profit institutions, as well as large for–profit institutions. As such, the regulation is not expected to adversely impact small business as defined in Government Code section 11342.610.

#### Impact on Local Agencies or School Districts:

CIRM has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII of the California Constitution. CIRM has also determined that

no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

#### **Costs or Savings to State Agencies:**

CIRM has determined that no savings or increased costs to any agency will result from the proposed regulatory action.

#### **Effect on Federal Funding to the State:**

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulatory action.

#### **Effect on Housing Costs:**

CIRM has made an initial determination that the proposed action will have no effect on housing costs.

# Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

CIRM has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California Businesses to compete with businesses in other states.

### **Cost Impacts on Representative Private Persons or Businesses:**

CIRM has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The CIRM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### Impact on the Creation, Elimination, or Expansion of Jobs:

CIRM has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

#### **Consideration of Alternatives:**

CIRM must determine that no reasonable alternatives considered by the agency, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the regulatory action.

### Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

#### Availability of Changed or Modified Text:

After the close of the comment period, CIRM may make the regulation permanent if it remains substantially the same as described in the Policy Statement Overview. If CIRM does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

#### **Agency Contact:**

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

C. Scott Tocher, Interim Counsel California Institute for Regenerative Medicine 210 King Street San Francisco, CA 94107 (415) 396–9136

Questions on the substance of the proposed regulatory action may be directed to:

Geoff Lomax, Senior Officer for Medical and Ethical Standards

California Institute for Regenerative Medicine (415) 396–9134

The Notice of Proposed Regulatory Adoption, the Initial Statement of Reasons and any attachments, and the proposed text of the regulations are also available on CIRM's website, <a href="www.cirm.ca.gov">www.cirm.ca.gov</a>.

#### **Availability of Final Statement of Reasons:**

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9, subdivision (a), may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on CIRM's webpage and accessed at <a href="https://www.cirm.ca.gov">www.cirm.ca.gov</a>.

### TITLE 22. CALIFORNIA HEALTH AND HUMAN SERVICES

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF THE CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY (INCLUDING THE CALIFORNIA OFFICE OF HIPAA IMPLEMENTATION AND THE OFFICE OF SYSTEMS INTEGRATION)

> Amendment of Conflict of Interest Code Section 10100, Title 22, California Code of Regulations

NOTICE IS HEREBY GIVEN that the California Health and Human Services Agency (including the California Office Of HIPAA Implementation and the Office of Systems Integration), hereinafter referred to collectively as the "Agency", pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict of Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Agency proposes to amend its Conflict of Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This Agency's amendment to the 10100 Introduction and 10101 Appendix of the Conflict of Interest Code for the Health and Human Services Agency defines Conflict of Interest Code terms and designates employee positions as to their respective disclosure category and makes other technical changes to reflect the current organizational structure of the Agency. Copies of the amended Conflict of Interest Code are available and may be requested from Rae De Long (contact information below).

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than July 16, 2007 (the last day of 45–day review period), or at the conclusion of the public hearing, if requested, whichever comes later, to Rae De Long.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than July 1, 2007, 15 days before close of the written comment period, by contacting Rae De Long.

The Agency has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting Rae De Long at (916) 651–8062 or write to her at the address shown below.

The Agency has determined that the proposed amendments:

- Impose no mandate on local agencies or school districts.
- 2. Impose no costs or savings on any state agency.
- 3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
- 4. Will not result in any nondiscretionary costs or savings to local agencies.
- 5. Will not result in any costs or savings in federal funding to the state.
- 6. Will not have any potential cost impact on private persons, businesses or small businesses.
- 7. Will not have any affect on housing costs in any way.

In making these proposed amendments, the Agency must determine that no alternative considered by the agency would be more effective in carrying out the purposes for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Rae De Long Staff Counsel Office of HIPAA Implementation 1600 Ninth Street, Rm. 460 (916) 651–8062 rdelong@ohi.ca.gov

# TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### 45-DAY PUBLIC NOTICE AND COMMENT PERIOD

Permit by Rule for Treatment of Aqueous Wastes Containing Cyanides

Department Reference Number: R-96-48

### Office of Administrative Law Notice File Number: Z-07-0605-12

**NOTICE IS HEREBY GIVEN** that the Department of Toxic Substances Control (DTSC) proposes to amend California Code of Regulations, title 22, section 67450.11.

### PUBLIC HEARING AND WRITTEN COMMENT PERIOD

A written comment period has been established commencing on June 15, 2007, and closing on July 31, 2007. DTSC will hold a public hearing on the proposed regulations at 10:00 a.m. on July 31, 2007 in the Sierra Hearing Room, 2<sup>nd</sup> Floor, 1001 "I" Street, Sacramento, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on July 31, 2007 will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre—hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

Due to enhanced security precautions at the Cal/EPA Headquarters Building located at 1001 I Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign—in and badge issuance occur in the Visitor and Environmental Services Center. This Center is located just inside and to the left of the building's public entrance. Depending on their destination and the building security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the security

check—in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

If you have special accommodation or language needs, please contact Ms. Nicole Sotak, Chief, Environmental Analysis and Regulations Section, at (916) 322–2833 or by e-mail at regs@dtsc.ca.gov by July 16, 2007. TTY/TDD users may dial 7–1–1 for the California Relay Service. Speech-to-Speech services are available by calling (800) 735–0373 or via TTY at (800) 735–0193.

In accordance with the California Government Code and Americans with Disabilities Act requirements, this publication can be made available in Braille, large print, computer disk, or tape cassette (etc) as a disability–related reasonable accommodation for an individual with a disability. To discuss how to receive a copy of this publication in an alternative format, please contact the Reasonable Accommodation Coordinator Adrian Recio at (916) 324–3095 or by e–mail at arecio@dtsc.ca.gov.

#### **AUTHORITY AND REFERENCE**

These regulations are being proposed under the following authorities:

Health and Safety Code section 25150. This section grants DTSC authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 58012 (Added by Gov. Reorg. Plan No. 1, §146, eff. July 17, 1991.) This section grants DTSC authority to adopt regulations to execute its duties.

These regulations implement, interpret, or make specific the following:

Health and Safety Code section 25150 which allows DTSC to adopt regulations governing the management of hazardous wastes and establishes general criteria for the standards.

Health and Safety Code section 25200 which allows DTSC to establish conditions for permits.

Health and Safety Code section 25200.2 which directs DTSC to establish a permitting process for transportable treatment units.

Health and Safety Code section 25201 which requires facilities that treat, store, dispose, or transfer hazardous waste to obtain authorization from DTSC (such as a Permit by Rule (PBR).)

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### **Existing Law**

Wastes that are hazardous are subject to regulation under several sets of law:

- 1. Chapter 6.5 of division 20 of the California Health and Safety Code.
- 2. Title 22, division 4.5, California Code of Regulations.
- 3. Title 27, division 1, California Code of Regulations.
- 4. The Federal Resource Conservation and Recovery Act (RCRA), as amended, and its implementing regulations in title 40 Code of Federal Regulations parts 124 and 260–273.

Additionally, use of cyanides is also governed the following germane State laws:

- 1. California Occupational Safety and Health Administration (Cal/OSHA) industrial safety orders. California Code of Regulations, title 8, division 1, chapters 3.2 and 4.
- 2. The California Accidental Release Prevention Program. California Code of Regulations, title 19, division 2, chapter 4.5. California Accidental Release Prevention (Cal ARP).

Hazardous waste control laws: State and federal regulations contain standards for identifying waste materials and classifying them as hazardous or non–hazardous: California Code of Regulations, title 22, division 4.5, chapter 11 and title 40 Code of Federal Regulations part 261. They also contain rules managing hazardous wastes including exemptions for some wastes and activities, regulation of recycling, permitting of treatment, transfer, storage and disposal facilities, and other hazardous waste issues.

This project addresses treatment of wastewaters containing cyanides. These wastewaters are identified as hazardous wastes by exhibiting the characteristic of toxicity, found in California Code of Regulations, title 22, section 66261.24. Cyanide containing wastewaters can be hazardous due to the oral toxicity (LD $_{50}$ ) of the cyanide, the aquatic toxicity (24 hour Aquatic LC $_{50}$ ) of the cyanide, or the combined toxicity or aquatic toxicity of both the cyanides and the metals dissolved in the solutions.

In California, Health and Safety Code section 25201 requires a permit or other grant of authorization for all treatment of hazardous waste. The State regulations do not recognize the federal exemptions for treatment in generator accumulation tanks and containers or the wastewater treatment unit exemption.

There are several avenues open for obtaining authorization to treat hazardous waste in California:

1. Full hazardous waste facility permit: (Cal. Code Regs., tit. 22, div. 4.5, ch. 14 and 20) A permit

- required of most commercial offsite hazardous waste facilities and hazardous waste landfills.
- Standardized hazardous waste facility permit: (Health & Saf. Code § 25201.6.) This permit is similar to the full hazardous waste facility permit but requires less information to be included in the application requiring pre-issuance DTSC approval. Both the full and standardized hazardous waste facility permits require document submission and review, a California Environmental Quality Act (CEQA) analysis, draft permit publication for public review and comment, and final issuance prior to the business commencing its treatment operations.
- Permit by Rule: (Cal. Code Regs., tit. 22, div. 4.5, ch. 45.) This permit (proposed in these regulations for authorizing treatment of cyanide containing wastewaters) is self-implementing and is more closely matched to the environmental threat posed by most onsite treatment activities than the full or standardized hazardous waste facility permit. It applies only to treatment of hazardous waste carried out on the site where the hazardous waste was generated ("onsite"). This permit requires a facility to notify the local Certified Unified Program Agency (CUPA) (or other agency designated by the Secretary for Environmental Protection, where there is no CUPA) of the treatment activity. The business then must certify compliance with the numerous protective standards of a PBR. When the facility has notified, it receives authorization; compliance with the regulatory requirements is determined upon inspection. A PBR can only be issued for a specific list of wastestreams and treatment processes that DTSC has found to be both well characterized and capable of being operated safely.
- 4. Grant of conditional authorization: (Health & Saf. Code § 25200.3.) This authorization (not a permit) applies only to a specified list of wastestreams and treatment processes. It can authorize only treatment carried out onsite. It is a self—implementing authorization that operates similar to a PBR, but with lower hazard hazardous wastes and fewer regulatory requirements.
- 5. Grant of conditional exemption: (Health & Saf. Code § 25201.5.) This authorization, again, not a permit, applies only to the smallest quantity onsite treatment and the lowest hazard wastestreams and treatment processes. It is also self–implementing

- and has even fewer regulatory requirements than the grant of conditional authorization.
- 6. Consent agreements: (Developed pursuant to Health & Saf. Code § 25187.) These are settlement agreements negotiated after DTSC charges a business for a violation or a threatened violation. These agreements allow continued treatment, but are meant to allow continuation of treatment activities only until the business can come into compliance with the standards for a normal grant of authorization. Consent agreements for cyanide treatment require compliance with the PBR regulatory standards. DTSC has issued consent agreements only to businesses treating wastes containing less than 1500 ppm cyanide.
- 7. Variances: (Health & Saf. Code § 25143.)
  Treatment can be authorized under a variance that allows a facility to vary from Health and Safety Code section 25201. Variances may only be issued under narrow conditions for short periods of time. They require individual analysis under CEQA.

Of all of these grants of authorization, the PBR is the most appropriate. The other types of authorization are all less appropriate for the reasons discussed below:

The consent agreement was never intended to authorize long term activities. It is an enforcement option intended to allow non–complying businesses to continue their activities while coming into compliance.

The variance option is environmentally protective because DTSC is allowed to place conditions on variances that mitigate any hazards. However, variances are individually issued and are very resource intensive for the business and DTSC. Additionally, the permissive nature of variance issuance makes each variance individually subject to a CEQA determination. Given that the lifespan of a variance is typically short term, the ongoing financial and resource burden on both the business and DTSC makes authorizing cyanide treatment by variance only a short term solution.

The two simplest self-implementing tiers of authorization, a grant of conditional exemption and a grant of conditional authorization, are inappropriate because these grants and the accompanying regulatory requirements were intended for lower risk waste treatment as is demonstrated by the concentration and hazard limits of the allowed wastestreams and treatment processes.

The remaining options other than PBR are the full hazardous waste facility permit and the standardized hazardous waste facility permit. The full permit is reserved for the most hazardous facilities such as land disposal facilities and incinerators regulated by the federal government under RCRA.

The standardized hazardous waste facility permit is the option considered in addition to PBR. Existing law would require that persons treating cyanide containing wastes onsite in tanks and containers obtain a standardized permit for that treatment. However, there are significant fees, a CEQA analysis, public review and comment and, if requested, a public hearing prior to formal issuance of a standardized permit. DTSC rejected this alternative because the risk posed by onsite cyanide treatment is not commensurate with the public and business resource needs for issuing standardized permits. Standardized permits are intended for offsite hazardous waste treatment and storage facilities and higher risk onsite hazardous waste treatment facilities.

Rather than require a standardized permit, DTSC is proposing to authorize treatment of lower concentration aqueous cyanide containing wastes under a PBR. The focus of this PBR authorization is the treatment of lower concentration wastewaters, with exceptions. Thus, California business will have access to inexpensive but protective authorization for frequently generated large volumes of relatively dilute cyanide containing wastewaters under PBR.

Federal laws: Federal regulations classify hazardous wastes in 40 Code of Federal Regulations part 261. Part 261, subpart C, commencing with section 261.20, establishes (among other provisions) which solid wastes are hazardous wastes due to extractable or dissolved hazardous contaminants, including metals. Subpart D establishes which solid wastes are hazardous wastes due to being listed as "listed hazardous wastes." Federal regulations classify most wastes containing cyanides as hazardous wastes. They establish listings for spent electroplating and stripping baths along with sludges from wastewater treatment and tank bottoms in section 261.31. Most cyanide solutions would also be classified as hazardous wastes due to the presence of one or more regulated metals above the toxicity characteristic thresholds in section 261.24.

Under federal law, aqueous wastes containing cyanides (at any concentration) may be treated onsite without obtaining a hazardous waste permit under most circumstances. This is allowed by the (uncodified) federal policy of allowing treatment in generator accumulation tanks and containers without a permit (51 Fed. Reg. 10174 (Mar. 24, 1986)) and the federal deferral of authorization for wastewater treatment to the Clean Water Act programs. The first exemption, treatment in tanks and containers within 90 days of generation, would require compliance with the standards applicable to all generators of hazardous waste (40 C. F. R., Part 262). The second exemption, treatment in a wastewater treatment unit, (40 C. F. R. § 264.1, 265.1, and 270.1) ex-

empts persons treating cyanides (and other onsite hazardous wastes) in "wastewater treatment units" from all hazardous waste regulations for that activity.

Notification forms: Under existing law, title 27 California Code of Regulations contains the Unified Program Consolidated Form (UPCF) which is used by businesses to notify of activities governed by the Unified Program. DTSC is amending the UPCF in title 27, California Code of Regulations to incorporate the new PBR cyanide waste stream and treatment process combinations.

#### **Policy Statement Overview**

Broad Objectives: The objective of this rulemaking action is to establish simple and protective authorization for treatment of certain cyanide containing wastes using specified technologies at the facility which generated the wastes. The authorization would be provided by extending the existing PBR authorization to avoid creating a new regulatory program requiring use of extensive business and government resources.

#### **Proposed Regulations**

The proposed rules would add five new waste streams and seven new treatment processes to the list of wastestreams and treatment processes under the PBR regulations (Cal. Code Regs., tit. 22, § 67450.11).

Wastestreams: The new wastestreams would be:

- Wastewaters from rinsing workpieces and fixturing. Facilities using cyanide solutions generate large volumes of rinsewaters containing both dissolved metals and cyanides. Facilities implementing the best management practices for rinsewaters generate wastewaters with concentrations of cyanide up to 5000 ppm<sup>1</sup>. Facilities that do not use efficient rinsing methods generate wastewaters with lower cyanide concentrations.
- 2. Cyanide containing wastes from the regeneration of ion exchange resins used for recycling water at facilities that have eliminated the discharge of wastewater ("zero discharge" facilities). These businesses recycle virtually all of their wastewaters periodically disposing only the effluent from the recycling operation itself.
- 3. Rinsate from pumps, containers, and hoses that have been used to transfer process solutions. All businesses must rinse solutions from transfer equipment prior to transferring a different solution.
- 4. Waste process solutions that are treated by
- Verbal communication from Dominic Nole representing the Surface Treatment Association. Information from polling California Metal Finishers.

- electrowinning for metal recovery prior to shipment to a hazardous waste treatment facility. Many businesses electroplating with precious metals electrowinn process solutions prior to shipment offsite to recover precious metals.
- 5. Waste process solutions added slowly to a rinse tank and treated in the wastewater treatment system: Spent process solutions would be allowed to be added very slowly to the rinse tanks until the cyanide concentrations in the rinse tank reaches 5,000 parts per million. The rinsewater is then required to be treated by cyanide destruction.

<u>Treatment processes:</u> The new treatment processes proposed for treatment of cyanide containing wastes under a PBR are:

- 1. Oxidation by addition of hypochlorite. In this process, one of the specified oxidizing agents is added to a cyanide bearing wastewater with the pH adjusted to about 10.5. The oxidizing agent oxidizes the cyanide to cyanate. When the oxidation reaction is complete, the pH is adjusted to a slightly acid pH promoting decomposition of the cyanate ion into carbon dioxide and nitrogen. After this treatment, the wastewater can be treated to remove metals or organic compounds and/or the pH can be adjusted to make the solution amenable for sewer discharge.
- Oxidation by addition of peroxide, or ozone, with or without the use of ultraviolet light. In this process, one of the specified oxidizing agents is added to a cyanide bearing wastewater with the pH adjusted to about 10.5. The oxidizing agent oxidizes the cyanide to cyanate. When the oxidation reaction is complete, the pH is adjusted to a slightly acid pH promoting decomposition of the cyanate ion into carbon dioxide and nitrogen. After this treatment, the wastewater can be treated to remove metals or organic compounds and/or the pH can be adjusted to make the solution amenable for sewer discharge. Ultraviolet light is often used to break apart metal-cyanide complexes for faster cyanide destruction when treating cyanide wastewaters that contain metal ions that form strong complexes with cyanide.
- Alkaline chlorination. This process is similar to the process above, except that chlorine gas is bubbled into the solution forming hypochlorous acid which then oxidizes the cyanide. After oxidation, the remaining steps in process 1. are carried out.
- 4. Electrochemical oxidation. In this process, an electrical current passed through the solution

- oxidizes the cyanide. After oxidation, the remaining steps in process 1. are carried out.
- 5. Ion exchange. In this process, cyanide bearing wastewaters are pumped through columns containing ion exchange resins. The resins have hydroxyl groups (OH–) attached to the resin. The cyanide replaces the hydroxyl groups on the resin and is thus removed from the wastewater. Additional treatment follows (not within the scope of this rulemaking) to remove other hazardous properties prior to discharge to the sewers or the waters of the State.
- 6. Electrowinning. Electrowinning is a method to recover metals from process solutions by electroplating them onto a "dummy cathode" prior to offsite recycling or disposal of the process solution. Many metals can be plated from solution onto a polished cathode such as a thin piece of stainless steel. When the plated cathode is bent, the plated metal spalls off and can be recycled as metallic scrap. Electrowinning is essentially identical to the electroplating process. Note that some cyanide is incidentally destroyed by electrochemical oxidation during electroplating and electrowinning.
- 7. Process solutions with cyanide added slowly to rinse tanks. The dilution of spent process solutions is necessary to reduce the risk associated with cyanide destruction of solutions with high cyanide concentrations. Slow addition of process solutions to the rinse tanks occurs until the cyanide concentrations in the rinse tank is reduced to 5,000 parts per million or less.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

DTSC is preparing an Initial Study and a draft Negative Declaration which indicates no significant effect from the project on the environment. These documents will be available for review at a later date and will be noticed and circulated for comment pursuant to the requirements of the CEQA Guidelines. A copy of the draft CEQA document will be posted on the DTSC Internet site at http://www.dtsc.ca.gov.

#### PEER REVIEW

Under the provisions of Health and Safety code section 57004, peer review is not required because the proposed regulations do not establish a regulatory level,

standard, or other requirement subject to scientific peer review.

#### **BUSINESS REPORT**

DTSC has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3(c).

#### FISCAL IMPACT ESTIMATES

Mandates on Local Agencies and School Districts: DTSC has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies. While the CUPAs will have additional inspection and enforcement work adding cyanide compliance assessment to existing PBR inspections, the CUPAs have authority to recover the "necessary and reasonable" costs of operating their programs (Health & Saf. Code § 25404.5).

Cost or Savings to Any State Agency: DTSC has made a preliminary determination that the proposed regulations will have no impact on State revenue or costs.

Cost or Savings in Federal Funding to the State: DTSC has made a preliminary determination that the proposed regulations will have no impact on Federal revenue or costs.

**Effect on Housing Costs:** DTSC has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Significant Statewide Adverse Economic Impact on Businesses:** DTSC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

**Effect on Small Businesses:** DTSC has determined that provisions of this rulemaking may have an effect on small businesses.

Assessment Statements:

- (A) Creation or elimination of jobs within California
   DTSC has made a preliminary determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) Creation of new businesses or the elimination of existing businesses within California — DTSC has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.
- (C) Expansion of businesses currently doing business in California — DTSC has made a preliminary determination that no businesses in California will be expanded as a result of the proposed regulations.

#### CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action. DTSC invites interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

### AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are posted to DTSC's Internet site at http://www.dtsc.ca.gov or may be obtained from Ms. Nicole Sotak of DTSC's Environmental Analysis and Regulations Section as specified below. The information upon which DTSC relied is also available at the address listed below.

#### POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the mo-

dified text, if substantive changes are made. Once regulations have been adopted, DTSC prepares a Final Statement of Reasons which updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Ms. Nicole Sotak at the address listed below. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at http://www.dtsc.ca.gov, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

#### CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Ms. Evelia Rodriguez of DTSC at (916) 322–3810 or <a href="mailto:erodrigu@dtsc.ca.gov">erodrigu@dtsc.ca.gov</a>, or, if unavailable, Ms. Sherri Lehman of DTSC at (916) 327–4509. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends or repeals these regulations. To be included in this regulation package's mailing list, and to receive updates of this rulemaking, please visit http://www.calepa.ca.gov/Listservs/dtsc/and subscribe to the applicable Listserv. You may also leave a message on the DTSC mailing list phone line at (916) 324–9933 or e–mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Ms. Nicole Sotak, Chief Environmental Analysis and Regulations Section Department of Toxic Substances Control

Mailing Address: P.O. Box 806

Sacramento, CA 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323–3215

Ms. Sotak's phone number is (916) 327–4508. If Ms. Sotak is unavailable, please call Ms. Laura Hayashi at (916) 322–6409.

#### GENERAL PUBLIC INTEREST

# DEPARTMENT OF FORESTRY AND FIRE PROTECTION

#### Title 14 of the California Code of Regulations

[Notice Published June 15, 2007]

### NOTICE OF CORRECTION FOR PROPOSED RULEMAKING

#### Fire Hazard Severity Zones, 2007

The California Department of Forestry and Fire Protection (CAL FIRE) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

CAL FIRE proposes to amend the following sections of Title 14, Chapter 7. Fire Protection, Subchapter 3 Fire Hazard, Article 1. Fire Hazard Severity, of the California Code of Regulations (14 CCR):

#### §1280. Fire Hazard Severity Zones

#### NOTICE OF CORRECTION

Below is a correction to the date for the Colusa County public hearing. The Colusa County hearing date has been changed to Wednesday, June 20, 2007. The date previously noticed was June 27, 2007, was incorrect and has been cancelled. All other hearing information remains as published in the May 25, 2007, hearing notices under this same regulatory title.

#### **Correction of hearing date for Colusa County**

<b>County</b> <b>Name</b>	<u>Hearing Date</u> <u>and Time</u>	<b>Hearing Location</b>	<b>Local Contact Person</b>
Colusa	July 20, 1:00 PM	Williams City Hall810 E. St., Williams, CA 95987	Frank Kemper (707) 967–1408

#### WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to CAL FIRE. The written comment period ends at 5:00 P.M., on Tuesday, July 31, 2007. CAL FIRE will consider only written comments received at the Department office by that time (in addition to those written comments received at the public hearing). CAL FIRE requests, but does not require, that persons who submit written comments to CAL FIRE reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Christopher Zimny
Regulations Coordinator
California Department of Forestry and Fire
Protection
P.O. Box 944246
Sacramento, CA 94244–2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

California Department of Forestry and Fire Protection Resources Building 1416 9<sup>th</sup> St., Room 1517 Sacramento, CA 95818

Written comments may also be sent to CAL FIRE via facsimile at the following phone number:

(916) 653-8957

Written comments may also be delivered via e-mail at the following address:

chris.zimny@fire.ca.gov

#### CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Christopher Zimny
Regulations Coordinator
California Department of Forestry and Fire
Protection
P.O. Box 944246
Sacramento, CA 94244–2460

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, phone number (916) 653–5602 at the above address.

The regulation, maps, and Geographic Information System data for the maps can be electronically viewed and downloaded at: <a href="http://www.fire.ca.gov/wildland.php">http://www.fire.ca.gov/wildland.php</a>

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

CAL FIRE has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using <u>UNDERLINE</u> to indicate an addition to the California Code of Regulations and <u>STRIKETHROUGH</u> to indicate a deletion, is also available from the contact person named in this notice.

CAL FIRE will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address.

California Department of Forestry and Fire Protection Resources Building Room 1517 1416 9<sup>th</sup> St. Sacramento, CA 94816 Attention: Christopher Zimny

Tel: (916) 653-9418

All of the above referenced information is also available on the CAL FIRE website at: <a href="http://www.fire.ca.gov/wildland.php">http://www.fire.ca.gov/wildland.php</a>

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, CAL FIRE may adopt

the proposed regulations substantially as described in this notice. If CAL FIRE makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before CAL FIRE adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from CAL FIRE.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. CAL FIRE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### STATE PERSONNEL BOARD

#### NOTICE OF PROPOSED REVISION OF REGULATIONS AND STATEMENT OF REASONS

California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.5. Personal Services Contracts
Article 6. Procedures that Apply to Contracts
Under Government Code section 19130(a)

**DATE:** June 15, 2007

TO: ALL STATE AGENCIES, EM-

PLOYEE ORGANIZATIONS, AND MEMBERS OF THE GOVERNOR'S

**CABINET** 

SUBJECT: PROPOSED AMENDMENTS TO

REGULATIONS CONCERNING PROCEDURES THAT APPLY COST SAVINGS PERSONAL SERVICES CONTRACTS UNDER GOVERN-MENT CODE SECTION 19130(a)

#### **AUTHORITY**

Under authority established in Government Code (GC) section 18701 and Public Contract Code (PCC) section 10337, the State Personnel Board (SPB) proposes to amend Title 2 of the California Code of Regulations (2 CCR), sections 547.69 through 547.71, which

provides for procedures utilized by the SPB to review proposed cost savings personal services contracts under GC section 19130, subdivision (a).

#### REFERENCE

These regulations are amended to implement, interpret, and/or make specific GC sections 19130(a), 19131, 19134, and PCC section 10337.

#### **PUBLIC HEARING**

Date and Time: July 10, 2007, from 9:45 a.m. to

10:15 a.m.

Place: State Personnel Board

First Floor Auditorium 801 Capitol Mall Sacramento, CA 95814

Purpose: To received written and/or oral

comments about this action.

#### WRITTEN PUBLIC COMMENT PERIOD

The attached proposed revisions reflect changes made as the result of written and oral public comments received by the SPB at its April 3, 2007, meeting, concerning the proposed regulations promulgated by the SPB on February 9, 2007. The written public comment period will close Monday, July 2, 2007, at 5:00 p.m. This comment period allows time for SPB staff to provide copies of any written comments to the five–member State Personnel Board (Board) for consideration at the time of the hearing. Any person may submit written comments about the proposed amendments. To be considered by the Board, the appropriate person identified below must receive written comments before the close of the written public comment period.

Written comments may be submitted to:

Senior Staff Counsel Bruce A. Monfross State Personnel Board 801 Capitol Mall, MS 53 Sacramento, CA 95814

or to: bmonfross@spb.ca.gov

or faxed to his attention at: (916) 653-4256.

### AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/CONTACT PERSONS

Copies of the express terms of the proposed action, the Statement of Reasons, and all of the information upon which this proposal is based are available for review upon request to Bruce Monfross. The rulemaking file is available for review during normal business hours at SPB, 801 Capitol Mall, Sacramento, CA 95814. Additional information or questions regarding the substance of the proposed action should be directed to Bruce Monfross, as specified above. Questions regarding the regulatory process in conjunction with this regulation should be directed to Bruce Monfross at SPB, 801 Capitol Mall, MS 53, Sacramento, CA 95814, or by telephone at (916) 653–1456 or TDD (916) 653–1498.

#### AVAILABILITY OF CHANGES TO PROPOSED TEXT

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, SPB will make the full text of the changed regulations available for at least 15 days before the date the regulations are permanently amended.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

GC section 18216 specifies that regulations concerning contracting out shall be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with GC section 11340) of Part 1 of Division 3).

GC section 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the Civil Service Act (GC section 18500 *et seq.*).

GC section 19130, subdivision (a), permits state governmental entities to enter into personal services contracts on the grounds that the contract will result in recognized cost savings to the state, subject to specified statutory requirements.

GC section 19131 requires a state agency proposing to enter into a personal services contract pursuant to the provisions of GC section 19130(a), to first notify the Board of its intention to do so, after which the Board is required to notify any employee organization affected by the proposed contract to request that the SPB review the contract for compliance with all legal requirements.

GC section 19134 provides specified criteria that must be satisfied before the Board can approve a personal services contract entered into under GC section 19130(a) for persons providing janitorial and house-keeping services, custodians, food service workers, laundry workers, window cleaners, and security guard services.

PCC section 10337 authorizes the Board to establish such standards and controls over approval of personal

services contracts entered into pursuant to the provisions of GC section 19130 as are necessary to assure that the contract is consistent with merit employment principles and those requirements contained in Article VII of the California Constitution.

The purpose of the proposed regulations is to provide guidance to state agencies and employee organizations regarding what information must be provided to the Board in those cases where the Board is reviewing proposed cost—savings contracts. Existing statutes and regulations do not provide sufficient specificity as to what specific information must be provided to the Board, thereby creating confusion and uncertainty as to whether a proposed personal services contract can be justified as a cost—savings contract.

In addition, the State Civil Service Act previously required each state agency and department to establish an effective affirmative action program with specified components, and to establish goals and timetables designed to overcome any identified underutilization of minorities and women in their respective organizations. Existing law further required the Board to conduct specified activities in this regard, and GC section 19130, subdivision (a)(4), mandated that personal services contracts entered into under GC section 19130, subdivision (a), could not adversely impact the state's affirmative action efforts.

Portions of those affirmative action provisions have, however, subsequently been held to be in violation of the California Constitution and the United States Constitution. As a result, existing regulations relating to GC section 19130, subdivision (a)(4), must be revised to come into compliance with existing equal employment opportunity laws.

#### IMPACT ON SMALL BUSINESSES

It is anticipated that the proposed amendments will have a nominal impact on small businesses. Although the proposed amendments will require small businesses to provide more detailed information concerning their costs associated with those personal services contracts they enter into with the state, those businesses should already have ready access to the requested information in order for the business to be able to make a reasoned bid for the contract.

#### LOCAL MANDATE

SPB has determined that the proposed action imposes no mandate on local agencies or school districts and, therefore, requires no reimbursement pursuant to GC section 17561.

#### COST ESTIMATES OF PROPOSED ACTION

#### Costs or Savings to State Agencies:

The proposed regulations will involve no additional costs to any state agency. It is anticipated that the proposed regulations will enable state agencies to better ascertain whether a personal services contract that it proposes to enter into will, in fact, result in recognized savings to the state.

#### **Impact on Housing Costs:**

No impact.

#### <u>Costs or Savings in Federal Funding to the State:</u>

No impact.

#### <u>Costs or Savings to Local Agencies or School</u> <u>Districts Required to be Reimbursed:</u>

No impact.

### Other Nondiscretionary Costs or Savings Imposed on Local Agencies:

No impact.

#### **Cost Impact on Private Persons or Businesses:**

It is anticipated that the proposed amendments will have a nominal impact on businesses, including sole proprietorships. Although the proposed amendments will require businesses to provide more detailed information concerning their costs associated with those personal services contracts they enter into with the state, those businesses should already have ready access to the requested information in order for the business to be able to make a reasoned bid for the contract.

### ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESS

SPB has made an initial determination that the proposed action will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### ASSESSMENT REGARDING THE EFFECT ON JOBS/BUSINESSES

The adoption of the proposed action should neither create nor eliminate jobs in the state, nor result in the elimination or expansion of existing businesses in the state, nor create or expand businesses in the state.

#### ALTERNATIVES STATEMENT

SPB has determined that no reasonable alternative considered by SPB, or that has otherwise been identified and brought to the attention of SPB, would be more effective in carrying out the purpose for which this ac-

tion is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

#### FINAL STATEMENT OF REASONS

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law pursuant to GC section 11346.9, and shall include a Final Statement of Reasons for the amendments. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

#### ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON THE STATE PERSONNEL BOARD WEBSITE

The text of the proposed amendments, the Notice of Proposed Amendment of Regulations and Statement of Reasons can be viewed at www.spb.ca.gov.

#### STATEMENT OF REASONS

The purpose of the proposed regulations is to provide greater guidance to state agencies and employee organizations regarding what information must be provided to the Board in those cases where the Board is reviewing proposed cost—savings contracts under Government Code section 19130, subdivision (a). Existing statutes and regulations do not provide sufficient specificity as to what exact information must be provided to the Board, thereby creating confusion, uncertainty, and needless litigation concerning whether a proposed personal services contract can be justified as a cost—savings contract.

In addition, the State Civil Service Act previously required each state agency and department to establish an effective affirmative action program with specified components, and to establish goals and timetables designed to overcome any identified underutilization of minorities and women in their respective organizations. Existing law further required the Board to conduct specified activities in this regard, and GC section 19130, subdivision (a)(4), mandated that personal services contracts entered into under GC section 19130, subdivision (a), could not adversely impact the state's affirmative action efforts.

Portions of those affirmative action provisions have, however, subsequently been held to be in violation of the California Constitution and the United States Constitution. As a result, existing regulations relating to GC section 19130, subdivision (a)(4), must be revised to come into compliance with existing equal employment opportunity laws.

#### **PROPOSITION 65**

# OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (Proposition 65)

NOTICE TO INTERESTED PARTIES June 15, 2007

REQUEST FOR COMMENTS ON PROPOSED LISTING OF GALLIUM ARSENIDE AS KNOWN TO CAUSE CANCER AND HEXAFLUOROACETONE, NITROUS OXIDE AND VINYL CYCLOHEXENE DIOXIDE AS KNOWN TO CAUSE REPRODUCTIVE TOXICITY AND

NOTICE OF A PUBLIC WORKSHOP ON THE PROPOSED LISTING OF CHEMICALS VIA THE LABOR CODE PROVISION

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety Code section 25249.5 *et seq.*, commonly known as Proposition 65). OEHHA is proposing to add *gallium arsenide* [CAS No. 1303–00–0] to the list of chemicals known to the state to cause cancer, for the purposes of Proposition 65, and *hexafluoroacetone* [CAS No. 684–16–2], *nitrous oxide* [CAS No. 10024–97–2] and *vinyl cyclohexene dioxide* [CAS No. 106–87–6] to the list of chemicals known to the state to cause reproductive toxicity, for the purposes of Proposition 65.

Health and Safety Code section 25249.8(a) requires that certain substances identified by the International Agency for Research on Cancer (IARC) or the National Toxicology Program (NTP), as described in Labor Code section 6382(b)(1) and (d), be included on the Proposition 65 list as causing cancer. Labor Code section 6382(b)(1) references substances identified as human or animal carcinogens by IARC, and Labor Code section 6382(d) references substances identified as carcinogens or potential carcinogens by IARC or NTP. In

2006, IARC issued the Volume 86 in its series *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*. In this monograph, IARC concluded that gallium arsenide is *carcinogenic to humans (Group 1)*.

Health and Safety Code section 25249.8(a) further requires that substances identified in Labor Code section 6382(d) as causing reproductive toxicity be included on the Proposition 65 list. Labor Code section 6382(d) captures any chemicals within the scope of the federal Hazard Communication Standard that are identified as reproductive toxicants. Chemicals fall within the scope of the Hazard Communication Standard if they are listed as hazardous in the latest edition of the American College of Governmental Industrial Hygienists (ACGIH) "Threshold Limit Values (TLVs)." The TLVs for hexafluoroacetone (male endpoint), nitrous oxide (developmental endpoint) and vinyl cyclohexene dioxide (male and female endpoints) were assigned on the basis of ACGIH's findings of reproductive effects.

Pursuant to state law, IARC's identification of gallium arsenide as carcinogenic to humans means that gallium arsenide must be included on the Proposition 65 list (Labor Code sections 6382(b)(1) and (d)). Also, ACGIH's basing of the TLV's for hexafluoroacetone, nitrous oxide and vinyl cyclohexene dioxide on reproductive toxicity means that hexafluoroacetone, nitrous oxide and vinyl cyclohexene dioxide must be included on the Proposition 65 list (Labor Code section 6382(d)). Therefore, OEHHA proposes to add gallium arsenide to the Proposition 65 list of chemicals known to cause cancer and hexafluoroacetone, nitrous oxide and vinyl cyclohexene dioxide to the Proposition 65 list of chemicals known to cause reproductive toxicity. Anyone wishing to provide comments as to whether gallium arsenide meets the requirements for listing as causing cancer specified in Health and Safety Code section 25249.8(a), by reference to Labor Code sections 6382(b)(1) and (d), or whether hexafluoroacetone, nitrous oxide and vinyl cyclohexene dioxide meet the requirements for listing as causing reproductive toxicity specified in Health and Safety Code section 25249.8(a), by reference to Labor Code section 6382(d), should send written comments in triplicate, along with any supporting documentations, by mail, email or by fax to:

Ms. Cynthia Oshita

Office of Environmental Health Hazard Assessment

Street Address: 1001 I Street Sacramento, California 95814 Mailing Address: P.O. Box 4010 Sacramento, California 95812–4010

Fax No.: (916) 323–8803 Telephone: (916) 445–6900 **coshita@oehha.ca.gov**  Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation by transmitted via email addressed to: coshita@oehha.ca.gov. In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on July 16, 2007.

An informal workshop to discuss this proposed action has been scheduled for **Monday**, **July 16**, **2007**, in the Coastal Hearing Room, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California, as an opportunity for providing oral comments on this proposed action. The workshop will begin at 10:00 a.m. and will end when all business is conducted or 5:00 p.m. Those interested parties who wish to discuss or comment on this proposed action are encouraged to attend the workshop. Interested parties may also submit comments to OEHHA. All comments must be received at or prior to the workshop in order to be considered prior to a final action by OEHHA.

#### **DECISION NOT TO PROCEED**

#### BOARD OF OCCUPATIONAL THERAPY

### NOTICE OF DECISION NOT TO PROCEED WITH RULEMAKING ACTION

The California Board of Occupational Therapy has decided not to proceed with its rulemaking action described in the Notice published in the California Regulatory Notice Register on April 6, 2007, OAL File # Z07–0327–03, concerning Title 16, California Code of Regulations, sections 4154, Post Professional Education and Training, 4155, Advanced Practice Certification, and 4156, Advanced Practice Representation.

#### SUMMARY OF REGULATORY ACTIONS

# REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

### BOARD OF BARBERING AND COSMETOLOGY Cleaning and Disinfecting Pedicure Footspa Equipment

This certification permanently amends one section and adopts two sections to Title 16, Division 9 of the Barbering and Cosmetology regulations. These changes regulate the procedures for cleaning and disinfecting various types of footspas commonly used in salons. These changes are necessary because current cleaning procedures do not adequately protect patrons from "serious pedicure—related skin infections."

Title 16

California Code of Regulations

ADOPT: 980.2, 980.3 AMEND: 980.1

Filed 05/30/07

Effective 05/30/07

Agency Contact: Paul Cobb (916) 445–8893

#### **BOARD OF EDUCATION**

American Indian Education Centers

This emergency action adopts standards and procedures for the award of grants to American Indian Education Centers to provide community—based educational resources to American Indian pupils and parents.

Title 5

California Code of Regulations

ADOPT: 11996, 11996.1, 11996.2, 11996.3, 11996.4, 11996.5, 11996.6, 11996.7, 11996.8,

11996.9, 11996.10, 11996.11

Filed 06/04/07

Effective 06/04/07

Agency Contact: Debra Strain (916) 319–0860

#### **BOARD OF EQUALIZATION**

Discounts, Coupons, Rebates, and Other Incentives

In this regulatory action, the State Board of Equalization adopts a new Sales and Use Tax regulation which sets forth rules as to whether various types of discounts, coupons, rebates and other incentives in connection with sales transactions are to be included in "gross receipts" or "sales price."

Title 18

California Code of Regulations

ADOPT: 1671.1

Filed 06/04/07

Effective 07/04/07

Agency Contact: Diane G. Olson (916) 322–9569

#### **BOARD OF EQUALIZATION**

Sales for Resale

This change without regulatory effect improves the presentation of information concerning the penalties provided by statutes for the improper use of a resale certificate for the purpose of evading payment of sales or use tax.

Title 18

California Code of Regulations

AMEND: 1668 Filed 06/05/07 Effective 07/05/07

Agency Contact: Diane G. Olson (91)

(916) 322–9569

#### CALIFORNIA HORSE RACING BOARD

Occupational Licenses and Fees

This amendment to Title 4 section 1481 adds "Backstretch Event Personnel" to a list of persons required to obtain an annual license.

Title 4

California Code of Regulations

AMEND: 1481 Filed 05/30/07 Effective 06/29/07

Agency Contact: Harold Coburn (916) 263–6397

#### CALIFORNIA STATE UNIVERSITY

Minor Aliens

California State University is repealing their regulation concerning classification of residency for minor aliens pursuant to a San Francisco Superior Court Consent Decree.

Title 5

California Code of Regulations

REPEAL: 41916 Filed 06/01/07 Effective 06/01/07 Agency Contact:

Deanna L. Thompson

(562) 951–4495

### CALIFORNIA STUDENT AID COMMISSION SNAPLE for Nurses in State Facilities

This action defines terms and adopts standards and procedures for administration of the program whereby the state offers to assume a portion of a nursing student's education loans in return for serving at a state–operated health care facility with a nursing vacancy rate greater than ten percent. The regulations implement Education Code sections 70125 through 70128.

#### CALIFORNIA REGULATORY NOTICE REGISTER 2007, VOLUME NO. 24-Z

Title 5

California Code of Regulations

ADOPT: 30920, 30921, 30922, 30923, 30924,

30925, 30926, 30927 Filed 05/30/07

Effective 05/30/07

Agency Contact: Linda Brown (916) 526–7599

### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Legislatively Mandated Vehicle Pursuit Training Requirements

This action adopts POST's policy guidelines governing vehicle pursuits as mandated by SB 719 (Stats. 2005, Chap. 485).

Title 11

California Code of Regulations

AMEND: 1081 Filed 06/04/07 Effective 07/01/07

Agency Contact: Patricia Cassidy (916) 227–4847

### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Participation in the POST Program

This regulatory action amends the POST Program provisions that deal with how to apply to participate in the program, eligibility for the program, mergers occurring after the initial request to participate, and compliance requirements once accepted into the program. This action amends and renumbers former section 1010 creating two new provisions — sections 9030 and 9031 — that will be placed in a new chapter 3 within new division 9 of the California Code of Regulations.

Title 11

California Code of Regulations

AMEND: 1010 (renumber to 9030 and 9031 to new

Chapter 3)
Filed 06/06/07
Effective 07/06/07

Agency Contact: Patricia Cassidy (916) 227–4847

### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Training & Testing Specifications — Peace Officers

This regulatory action amends incorporated by reference PAM sections D-1-3 and D-1-4 and the "Training and Testing Specifications for Peace Officer Basic Courses".

Title 11

California Code of Regulations AMEND: 1005, 1007, 1008

Filed 06/01/07 Effective 07/01/07

Agency Contact: Patricia Cassidy (916) 227–4847

### DEPARTMENT OF CORRECTIONS AND REHABILITATION

Mandatory Conditions of Parole Pilot Program

This regulatory action establishes the Mandatory Condition of Parole (MCOP) Pilot Program as a two—year pilot program pursuant to Penal Code section 5058.1, and thus, is exempt from the rulemaking requirements of the Administrative Procedure Act and OAL review. The purpose of this program is to increase rehabilitation of parolees in the community through imposing a special condition of parole mandating residential aftercare for a period of 120 days immediately upon parole. CMOP mandates 120 days residential aftercare treatment of felon inmates paroling from the In–Prison Therapeutic Community Substance Abuse Program (ICTCSAP).

Title 15

California Code of Regulations

ADOPT: 3999.5 Filed 06/05/07 Effective 06/05/07

Agency Contact: Shelley Alarid (916) 324–1959

### DEPARTMENT OF FOOD AND AGRICULTURE Light Brown Apple Moth Interior Quarantine

This emergency regulatory action designates additional portions of many counties as quarantine areas with respect to the light brown apple moth (Epiphyas postvittana). It is classified as a Federal Action Pest. The currently affected areas are: Alameda, Contra Costa, Marin, Monterey, San Francisco, San Mateo, Santa Clara and Santa Cruz counties. The total proposed land mass area to be quarantined is now approx. 725 sq. miles.

Title 3

California Code of Regulations

AMEND: 3434(b) Filed 06/06/07 Effective 06/06/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE Light Brown Apple Moth Eradication Area

This emergency regulatory action designates the entire county of Napa as an additional "eradication area" with respect to the light brown apple moth (Epiphyas postvittana). The pest is quickly infesting large areas of

California and is a serious threat to agricultural crops and other plants.

Title 3

California Code of Regulations

AMEND: 3591.20(a) Filed 06/05/07 Effective 06/05/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE Meat and Poultry Inspection

This action makes substantial revisions to the entire California meat and poultry inspection system governing slaughterhouses and processing plants not subject to federal inspection. This action is the resubmittal of previously withdrawn OAL file number 06–1005–03S.

Title 3

California Code of Regulations

ADOPT: 900, 900.1, 900.2, 901.5, 901.8, 901.9, 901.10, 901.11, 902, 902.1, 902.3, 902.4, 902.5, 902.6, 902.7, 902.8, 902.9, 902.10, 902.11, 902.12, 902.13, 902.14, 903, 903.1, 903.2, 903.3, 903.4, 903.5, 903.6, 903.7, 903.8, 903.9, 903.10, 903.11, 903.12

Filed 05/31/07 Effective 06/30/07

Agency Contact: Nancy Grillo (916) 651–7280

#### **DEPARTMENT OF JUSTICE**

Administrative Review for Charitable Registration Actions

These newly adopted regulations located at Title 11, California Code of Regulations sections 999.6, 999.7 and 999.8, create the administrative review process necessary to refuse to register, revoke, or suspend the registration of charitable trustees and fundraising professionals for violations of the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Government Code section 12580 et seq.).

Title 11

California Code of Regulations ADOPT: 999.6, 999.7, 999.8

Filed 06/01/07

Effective 07/01/07 Agency Contact:

John M. Appelbaum (91

(916) 445–2389

#### **EDUCATION AUDIT APPEALS PANEL**

Conflict of Interest Code

The Education Audit Appeals Panel is amending their conflict of interest code found at title 5, section 19802, California Code of Regulations. This amend-

ment was approved for filing by the Fair Political Practices Commission on April 30, 2007.

Title 5

California Code of Regulations

AMEND: 19802 Filed 06/05/07 Effective 07/05/07

Agency Contact: Carolyn Pirillo (916) 445–7745

### OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Guarding of Meat Cutting Band Saw Blades

Occupational Safety and Health Standards Board proposed amendment to the meat cutting band saw safety order in Title 8, California Code of Regulations, section 4543 to address safety concerns specific to individuals using band saws in the meat cutting industry. There is no federal safety requirements specific to meat cutting equipment and, since meat cutting and woodworking band saws are similar in construction and use, federal OSHA inspectors enforce federal safety requirements for woodworking band saws (29 CFR 1910.213(i) (1)) in the meat cutting industry. Amended section 4543 is revised for consistency with federal requirements, and clarifies and establishes additional band saw blade guard and related safety requirements specific to the meat cutting industry.

Title 8 California Code of Regulations AMEND: 4543

Filed 06/01/07 Effective 07/01/07

Agency Contact: Marley Hart (916)

(916) 274–5721

#### CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN JANUARY 03, 2007 TO JUNE 06, 2007

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

#### Title 2

05/23/07	ADOPT:	20108,	20108.1,	20108.12,
	20108.15,	201	08.18,	20108.20,
	20108.25,	201	08.30,	20108.35,
	20108.36,	201	08.38,	20108.40,
	20108.45,	201	08.50,	20108.51,

0-1-1-10-	20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80	05/07/07	903.6, 903.7, 903.8, 903.9, 903.10, 903.11,903.12 AMEND: 6860
05/21/07	AMEND: 18402		AMEND: 3433
05/17/07	AMEND: 52900	05/07/07	
05/17/07	ADOPT: 1859.70.4, 1859.71.6,	05/03/07	ADOPT: 3035 REPEAL: 3035, 3035.1,
	1859.77.4, 1859.162.1, 1859.162.2,		3035.2, 3035.3, 3035.4, 3035.5, 3035.6,
	1859.162.3, 1859.163.4, 1859.163.5,		3035.7, 3035.8, 3035.9
	1859.163.6, 1859.163.7, 1859.169.1	04/25/07	AMEND: 3433(b)
	AMEND: 1859.2, 1859.51, 1859.60,	04/23/07	AMEND: 3591.20
	1859.61, 1859.70.3, 1859.71, 1859.78.9,	04/20/07	ADOPT: 3434
	1859.83, 1859.93.2, 1859.160, 1859.161,	04/20/07	AMEND: 3591.20(a)
	1859.162, 1859.163.1, 1859.163.2,	04/03/07	AMEND: 3591.20(a), 3591.20(b)
	1859.163.3, 1859.164, 1859.164.1,	04/02/07	AMEND: 752, 796.6, 1301
		03/28/07	AMEND: 3591.2(a)
	1859.164.2, 1859.165, 1859.166,	03/27/07	ADOPT: 1446.9, 1454.16
	1859.167,1859.167.1, 1866.4, 1866.13	03/21/07	ADOPT: 3591.20
	Repeal: 1859.162.1	03/15/07	ADOPT: 1371, 1371.1, 1371.2
05/14/07	AMEND: 599.664	03/07/07	AMEND: 3423(b)
05/08/07	AMEND: div. 8, ch. 48, sec. 53700	03/06/07	AMEND: 3700(c)
05/08/07	ADOPT: 1185.2, 1185.3, 1185.4	02/15/07	ADOPT: 499.5, 513, 513.5 AMEND:
	AMEND: 1185, 1185.01, 1185.02,		498, 499, 500, 501, 502, 504, 505, 509,
	1185.03, 1185.1		510, 511, 512, 512.1, 512.2, 514, 515,
04/30/07	AMEND: 1859.124.1		516, 517, 525, 551, 552, 553, 554, 604.1
04/25/07	AMEND: 1859.83, 1859.202, 1866		REPEAL: 499.5, 503, 506, 508, 512.3, 527, 536, 537, 538, 539, 540, 541, 543,
04/16/07	AMEND: 18401		544, 546, 547, 550
04/04/07	AMEND: 28010 REPEAL: 36000	02/14/07	AMEND: 3700(c)
03/27/07	AMEND: 59560	02/08/07	AMEND: 3433(b)
03/20/07	ADOPT: 18746.3	02/08/07	AMEND: 6170, 6172, 6200
03/15/07	AMEND: div. 8, ch. 102, section 59100	02/07/07	AMEND: 6170, 6172, 6200
03/14/07	AMEND: div. 8, ch. 73, section 56200	01/31/07	AMEND: 3591.12(a)
03/01/07	AMEND: 21922	01/24/07	AMEND: 3591.13(a)
02/28/07	AMEND: 714	01/18/07	AMEND: 3423(b)
02/16/07	AMEND: 1859.2, 1859.76, 1859.83,	01/18/07	AMEND: 3433(b)
02/02/07	1859.163.1, 1859.167, 1859.202, 1866	01/18/07	AMEND: 3433(b)
02/02/07	AMEND: 2561, 2563, 2564, 2565, 2566, 2567	01/18/07	AMEND: 3800.1, 3800.2
01/26/07	ADOPT: 599.550, 599.552, 599.553,	01/09/07	AMEND: 3433(b)
01/20/07	599.554 AMEND: 599.500	01/08/07	AMEND: 3591.2(a)
01/19/07	ADOPT: 18531.62, 18531.63, 18531.64	01/08/07	AMEND: 3591.6(a)
01/15/07	AMEND: 18544	01/05/07	AMEND: 3406(b)
01/11/07	AMEND: 1894.4, 1896.12	01/05/07	AMEND: 3433(b)
01/09/07	AMEND: 18707.1	01/05/07 01/03/07	AMEND: 6625 AMEND: 3424(b)
01/09/07	ADOPT: 18534		AMEND: $3424(0)$
01/09/07	ADOPT: 18530.3	Title 4	ANATEM 1401
01/08/07	ADOPT: 1859.106.1 AMEND: 1859.106	05/30/07	AMEND: 1481
Title 3		05/08/07	AMEND: 1433
06/06/07	AMEND: 3434(b)	05/07/07	AMEND: 1606
06/05/07	AMEND: 3591.20(a)	04/24/07	ADOPT: 9071, 9072, 9073, 9074, 9075
05/31/07	ADOPT: 900, 900.1, 900.2, 901.5, 901.8,	04/19/07	AMEND: 10176, 10177, 10178, 10179,
	901.9, 901.10, 901.11, 902, 902.1, 902.3,		10180, 10181, 10182, 10183, 10188
	902.4, 902.5, 902.6, 902.7, 902.8, 902.9,	03/13/07	ADOPT: 7075, 7076, 7077, 7078, 7079,
	902.10, 902.11, 902.12, 902.13, 902.14,		7080, 7081, 7082, 7083, 7084, 7085,
	903, 903.1, 903.2, 903.3, 903.4, 903.5,		7086, 7087, 7088, 7089, 7090, 7091,

	7092, 7093, 7094, 7095, 7096, 7097,	Title 8	
	7098, 7099 REPEAL: 7000, 7001, 7002,	06/01/07	AMEND: 4543
	7003, 7004, 7005, 7006, 7007, 7008,	05/23/07	AMEND: 9767.4, 9767.8, 9768.10,
	7009, 7010, 7011, 7012, 7013, 7014,		9788.11
02/08/07	7015, 7016, 7017 ADOPT: 12550, 12552, 12554, 12556,	05/23/07	AMEND: 5001
02/00/07	12558, 12560, 12562, 12564, 12566,	05/21/07	AMEND: 9768.5, 9788.31
	12568, 12572	05/16/07	AMEND: 1991, 9416
02/08/07	ADOPT: 12341	04/27/07 04/26/07	AMEND: 1801, 8416 ADOPT: 10225, 10225.1, 10225.2
01/31/07	AMEND: 12590	04/24/07	AMEND: 5004, 5047, 8379
01/30/07	AMEND: 12101, 12301.1, 12309	04/20/07	AMEND: 1620, 1626, 1629
01/30/07	ADOPT: 12460, 12461, 12462, 12463,	04/20/07	AMEND: 5148(c)
01/30/07	12464, 12466 AMEND: 12358	04/18/07	AMEND: 20299, 20363, 20407
01/36/07	AMEND: 1433	03/29/07	AMEND: 3664(a)
01/20/07	ADOPT: 523	03/27/07	AMEND: 3291, 3292, 3295, 3296
01/11/07	AMEND: 1536	03/06/07	AMEND: 1529, 1532, 1532.1, 1535,
Title 5			5144, 5190, 5198, 5200, 5202, 5207,
06/05/07	AMEND: 19802		5208, 5210, 5211, 5213, 5214, 5217,
06/04/07	ADOPT: 11996, 11996.1, 11996.2,	02/02/07	5218,5220,8358
	11996.3, 11996.4, 11996.5, 11996.6,	03/02/07 03/01/07	ADOPT: 1731 AMEND: 1730 AMEND: 1541
	11996.7, 11996.8, 11996.9, 11996.10,	02/28/07	AMEND: 9789.40
	11996.11	02/21/07	
06/01/07	REPEAL: 41916	02/15/07	AMEND: 9789.11
05/30/07	ADOPT: 30920, 30921, 30922, 30923,	Title 9	
05/18/07	30924, 30925, 30926, 30927 ADOPT: 19828.2, 19829.5, 19830.1,	05/24/07	AMEND: 13035
03/16/07	19837.1, 19838, 19846 AMEND: 19816,	05/01/07	ADOPT: 3100, 3200.010, 3200.020,
	19816.1, 19828.1, 19830, 19837, 19854		3200.030, 3200.040, 3200.050,
05/11/07	AMEND: 30023(c)		3200.060, 3200.070, 3200.080,
05/07/07	ADOPT: 30910, 30911, 30912, 30913,		3200.090, 3200.100, 3200.110,
03/07/07	30914, 30915, 30916, 30917		3200.120, 3200.130, 3200.140,
04/23/07	ADOPT: 30710, 30711, 30712, 30713,		3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210,
04/23/07	30714, 30715, 30716, 30717, 30718		3200.220, 3200.230, 3200.240,
04/17/07	AMEND: 18013, 18054, 18068		3200.250, 3200.260, 3200.270,
04/09/07	ADOPT: 11962, 11962.1		3200.280, 3200.300, 3200.310, 3300,
04/06/07	AMEND: 41301		3310, 3315, 3320, 3350, 3360, 3400,
03/29/07	AMEND: 42356		3410, 3500, 3505, 3510, 3520, 3530,
03/19/07	AMEND: 41550		3530.10, 3530.20, 3530.30, 3530.40,
03/19/07	AMEND: 41301		3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL:
03/01/07	AMEND: 19816, 19851, 19852, 19853		3100, 3200.000, 3200.010, 3200.020,
02/28/07	AMEND: 80028, 80487		3200.030, 3200.040, 3200.050,
02/16/07	ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6,		3200.060, 3200.070, 3200.080,
	11987.7		3200.090, 3200.100, 3200.110,
02/08/07	ADOPT: 1000, 1000.1, 1000.2, 1000.3,		3200.120, 3200.130, 3200.140,
	1000.4, 1000.5, 1000.6, 1000.7		3200.150, 3200.160, 3310, 3400, 3405,
01/17/07	ADOPT: 55151, 55151.5 AMEND:		3410, 3415
	55002, 55150, 58160	Title 10	
01/17/07	ADOPT: 58707 AMEND: 58704, 58770,	05/01/07	AMEND: 2716.1, 2790.1.5, 2810.5
	58771, 58773, 58774, 58776, 58777,	04/26/07	REPEAL: 2716, 2790.1, 2810
01/10/07	58779 REPEAL: 58706, 58775 AMEND: 55806	04/26/07	ADOPT: 5357, 5357.1, 5358, 5358.1 AMEND: 5350, 5352
01/10/07	AMEND. 33000		AMEND. 3330, 3332

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1342, 1343, 1344, 1350, 1351, 1352,
 04/25/07 AMEND: 2697.6, 2697.61
                                                               1353, 1354, 1355, 1356, 1360, 1361,
 04/25/07
           AMEND: 250.30
                                                                1362, 1363, 1364, 1365, 1366, 1370,
 04/24/07
           AMEND: 2498.6
                                                               1371, 1372, 1373, 1374, 1375, 1400,
 04/16/07
           AMEND: 2318.6, 2353.1, 2354
                                                               1401, 1402, 1403, 1404, 1405, 1406,
 03/23/07
           AMEND: 2695.8(b)(2)
                                                                1410, 1411, 1412, 1413, 1414, 1415,
 03/09/07
           AMEND: 2498.6
                                                               1416, 1417, 1418, 1420, 1421, 1422,
           AMEND: 260.230, 260.231, 260.236.1,
 03/06/07
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                                                               ADOPT: 2775, 2775.1, 2775.2, 2780,
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                                                               18751.2 REPEAL: Form CIWMB 303
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